

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA

James Demarlo Kershaw (“Plaintiff”), proceeding *pro se*, brought this civil action pursuant to 42 U.S.C § 1983. (ECF. No. 1.) In accordance with 28 U.S.C. § 636(b)(1)(B) and Local Rule 73.02 for the District of South Carolina, this matter was referred to United States Magistrate Judge Kevin F. McDonald, for pretrial handling. The matter is now before this Court for review of the Report and Recommendation (“Report”) issued by the Magistrate Judge on June 8, 2018. (ECF No. 20.) In his Report, the Magistrate Judge recommends that the Court partially dismiss the Complaint in this case without prejudice and without issuance and service of process for Defendant City of Spartanburg Police Department. Objections to the Report were due by June 25, 2018. Neither Defendant nor Plaintiff has filed any Objections.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the Court. See *Mathews v. Weber*, 423 U.S. 261 (1976). The Court is charged with making a *de novo* determination of any portion of the Report of the Magistrate Judge to which a specific objection is made. The Court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or recommit

the matter to the Magistrate Judge with instructions. See 28 U.S.C. § 636(b). In the absence of a timely filed Objection, a district court need not conduct a de novo review, but instead must “only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005).

After a careful review of the record, the applicable law, and the Report of the Magistrate Judge, the Court finds no clear error. Accordingly, the Court ACCEPTS and incorporates the Report (ECF No. 20) by reference into this Order. It is therefore ORDERED that the complaint in this action is dismissed without prejudice and without issuance and service of process as to Defendant City of Spartanburg Police Department. Only Defendant Stacy N. Smith remains. This matter is returned to the Magistrate Judge for further pretrial proceedings.

IT IS SO ORDERED.

/s/Bruce Howe Hendricks  
United States District Judge

June 29, 2018  
Greenville, South Carolina

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#### **NOTICE OF RIGHT TO APPEAL**

The parties are hereby notified that any right to appeal this Order is governed by Rules 3 and 4 of the Federal Rules of Appellate Procedure.